



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF DATA NET	)	ORDER
SYSTEMS, L.L.C., D/B/A POLTEL II FOR AUTHORITY	)	
TO PROVIDE LOCAL EXCHANGE AND INTER-	)	
EXCHANGE TELECOMMUNICATIONS SERVICES	)	
THROUGHOUT THE STATE OF NEW JERSEY	)	DOCKET NO. TE09080654

(SERVICE LIST ATTACHED)

Dennis C. Linken, Esq., Stryker, Tams & Dill LLP, Newark, New Jersey - for Petitioner

Michael L. Vitale, President, Data Net Systems, L.L.C. d/b/a PolTel II, Rolling Meadows, Illinois -  
Petitioner

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated August 3, 2009, Data Net Systems, L.L.C., d/b/a Poltel II ("Petitioner" or "DNS") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide all forms of competitive and facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed an affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12.1 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

DNS is a limited liability company organized under the laws of the State of Illinois. VH Ventures LLC is the principal owner and has 48% ownership interest in the company. The remaining 52% is owned by forty-six (46) small investors, all of whom have less than 10% ownership interest in the company. The company was initially organized as IPTA, L.L.C. on June 13, 1995 and on November 16, 1995, filed the Articles of Amendment to the Articles of Organization changing its name to DNS. On July 7, 2009, the company filed a Registration of Alternate Name with the State of New Jersey's, Division of Treasury to operate under the alternate name of Poltel II. Petitioner's principal offices are located at 3701 Algonquin Road, Suite #450, Rolling Meadows, Illinois 60008-3191.



Petitioner has submitted copies of its Articles of Organization and Article of Amendment to its Article of Organization for Limited Liability Company from the State of Illinois and its New Jersey Certificate of Authority to Operate as a Foreign Limited Liability Company. Petitioner has filed a Resale Acknowledgement Letter with Verizon – New Jersey, Inc. to provide resold local exchange and interexchange telecommunications services in the State of New Jersey. Petitioner does not at this time seek authority to provide local exchange telecommunications services in the service areas of small or rural Local Exchange Carriers ("LEC") in New Jersey that qualify for rural exemption outlined in Section 251(f)(1) of the Federal Act. Applicant is authorized to provide competitive local exchange and interexchange telecommunications services in the State of Illinois. The Company states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings. Petitioner intends to negotiate an interconnection agreement with Verizon – New Jersey, Inc.

Petitioner seeks authority to provide all forms of competitive and facilities-based local exchange and interexchange telecommunications services to both residential and business customers in the State of New Jersey. Petitioner plans to offer its services using a combination of both its own facilities and facilities of other carriers by purchasing unbundled network elements and reselling telecommunications services of incumbent local exchange carriers. Petitioner will collocate its state of the art telecommunications equipment within the existing facilities of other carriers, central offices of LECs, or other structures. Applicant will use the existing conduits, ducts, right-of-way and facilities of other telecommunications carriers and utilities. Petitioner states that its services include but is not limited to:

- (1) Local exchange services for business and residential markets that will enable customers to originate and terminate local calls in the local calling area served by the Petitioner as well as LECs;
- (2) Switched local exchange services such as flat-rates and measure-rated local services, vertical services, Direct Inward and Outward Dialed trunks, carrier access, public and semi-public coin telephone services, and any other switched local services that currently exist or will exist in the future; and
- (3) Non-switched local services (e.g. private line).

Petitioner does not currently have any telecommunications transmission facilities in New Jersey and does not plan to construct new or extend their existing outside plants. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file a proposed tariff with the Board.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located in Rolling Meadows, Illinois. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner



also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, DNS states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who, according to DNS, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

### DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. §253(a).

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. §253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed DNS's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout the State of New Jersey.

The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52 the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board. However, Petitioner won't be relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year and payment of annual assessment to both the Board and the New Jersey Division of Rate Counsel.

The Board HEREBY ORDERS that:

- 1) Petitioner shall file its tariff with the Board.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the



following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.

- 3) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 10/8/09

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

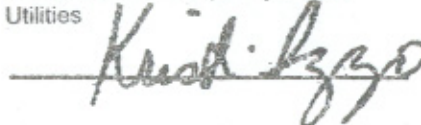
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSETTA  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:   
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



IN THE MATTER OF THE PETITION OF DATA NET SYSTEMS, L.L.C. D/B/A POLTEL II  
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES  
IN THE STATE OF NEW JERSEY

DOCKET NO. TE09080654

SERVICE LIST

1. Petitioner's Contact Person:

Michael L. Vitale  
President and  
Regulatory Contact  
Data Net Systems, L.L.C.,  
d/b/a/ Poltel II  
3701 Algonquin Road, Suite #450,  
Rolling Meadows, Illinois 60008-3191

2. Petitioner's Attorney:

Dennis C. Linken, Esq.  
Stryker, Tams & Dill LLP  
Attorneys At Law  
Two Penn Plaza East  
Suite 1500  
Newark, New Jersey 07105

3. Board's Staff:

Dennis J. Moran  
Director, Division of Audits  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

4. Public Advocate:

Stefanie A. Brand, Esquire  
Director, Division of Rate Counsel  
Department of Public Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P. O. Box 46005  
Newark, New Jersey 07101

5. Deputy Attorney General:

Jessica L. Campbell, DAG  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P. O. Box 45029  
Newark, New Jersey 07102

6. Board's Staff:

Anthony Centrella  
Director, Division of Telecommunications  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102